

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)
)
1998 Biennial Regulatory Review --)
47 C.F.R. Part 90 – Private Land Mobile)
Radio Services)
)
Replacement of Part 90 by Part 88 to Revise)
the Private Land Mobile Radio Services and)
Modify the Policies Governing Them)
and)
Examination of Exclusivity and Frequency)
Assignment Policies of the Private Land)
Mobile Services)

WT Docket No. 98-182
RM-9222

PR Docket No. 92-235

**COMMENTS OF ATLANTIC CITY ELECTRIC COMPANY AND
DELMARVA POWER AND LIGHT COMPANY**

Pursuant to Section 1.415 of the Federal Communications Commission's Rules, 47 C.F.R. §1.415, Atlantic City Electric Company (Atlantic) and Delmarva Power and Light Company (Delmarva) hereby submit comments in response to the FCC's Notice of Proposed Rulemaking in the above-captioned matter.¹ As is detailed more fully below, Atlantic and Delmarva urge the FCC to amend its Part 90 rules to permit the sharing of 800 MHz Industrial/Land Transportation land mobile radio facilities with Public Safety Category eligibles and federal government entities.

¹ In the Matter of 1998 Biennial Regulatory Review – 47 C.F.R. Part 90 – Private Land Mobile Radio Services, Replacement of Part 90 by Part 88 to Revise the Private Land Mobile Radio Services and Modify the Policies Governing Them and Examination of Exclusivity and Frequency Assignment Policies of the Private Land Mobile Services; Notice of Proposed Rulemaking; Adopted: September 30, 1998; Released: October 20, 1998.

BACKGROUND

1. Atlantic and Delmarva are sister utilities serving customers in the states of New Jersey, Delaware, Maryland and Virginia. Atlantic provides electric power to approximately 465,000 customers across its 2,700 square mile service territory, which includes Atlantic City and Southern New Jersey. Delmarva provides electric power and natural gas to approximately 540,000 customers across 5,700 square miles including most of the Delaware-Maryland-Virginia Peninsula. In order to facilitate the safe, effective and efficient delivery of energy to their customers, Delmarva and Atlantic have licensed and implemented wide area 800 MHz I/LT radio systems. In providing reliable, comprehensive wireless communications, these systems are indispensable to Atlantic and Delmarva's ability to carry out their utility operations.

DISCUSSION

2. In its NPRM, the FCC proposes to amend its rules to permit Public Safety licensees to share their land mobile systems on a non-profit basis with federal agencies, which are not currently eligible to use Public Safety spectrum.² The FCC notes that sharing arrangements between public safety licensees and the federal government entities would be mutually beneficial in that both the licensee and the sharing entity would realize cost savings as a result. Licensees' operational costs could be expected to go down as federal agencies assume a proportionate share, while federal agencies will likely obtain access to wireless communications at less cost than if they were to build out their own systems.³ The FCC also request comments on whether this proposal should be extended to Industrial/Business licensees.

² Id. at para. 20.

³ Id.

3. Atlantic and Delmarva submit that the same benefits would accrue if the FCC were to extend its proposal to include sharing of systems in the Industrial/Land Transportation service with Public Safety Category eligibles and federal government entities. Many I/LT licensees, such as Atlantic and Delmarva, have systems that provide high quality land mobile communications over a large geographic territory. Where feasible, sharing of these systems would provide extraordinary benefits to public safety and federal entities that might not otherwise have access to wireless communications. As the FCC points out in the NPRM, it has previously recognized these benefits in granting waivers of the eligibility restriction contained in section 90.179.⁴

4. Atlantic and Delmarva submit that a rule change to permit such sharing will serve the FCC's objective of eliminating rule provisions that are not in the public interest. Indeed, the elimination of the eligibility restriction insofar as it impacts I/LT licensees will substantially further the public interest. Permitting the described sharing arrangements will greatly facilitate access to wireless communications capability on the part of public safety entities and federal government agencies. This, in turn, will permit these entities to carry out their important functions more efficiently and effectively.

5. At the same time, the administrative burden on the FCC will be reduced as the need to seek a rule waiver in connection with a particular system is eliminated. The FCC has recognized the principles that support sharing between I/LT, public safety and federal government entities and it is administratively wasteful for the FCC to continually consider and pass on them each time a licensee seeks to share its system. Modifying the rule to permit such sharing would do away with this inefficiency in the current rule.

⁴

Id. at f.n. 45.

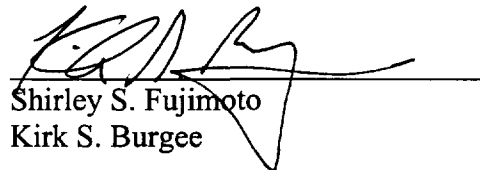
6. Finally, modifying the rule will further the Commission's policy objective of vigorous and efficient radio spectrum utilization by increasing the number of users on a given system and the extent of trunked use.⁵

CONCLUSION

Atlantic and Delmarva applaud the FCC's efforts to streamline the Part 90 Rules. Based on the significant benefit to the public interest that would arise therefrom, Atlantic and Delmarva submit that the FCC should eliminate the restriction on non-profit cost-sharing of 800 MHz I/LT service frequencies with Public Safety Category eligibles and federal government agencies.

Respectfully submitted,

**DELMARVA POWER AND LIGHT COMPANY
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⁵ See, e.g., In the Matter of Amendments to Parts 89, 91, 93 and 95 of the Commission's Rules and Regulations to Adopt New Practices and Procedures for Cooperative Use and Multiple Licensing of Stations in the Private Land Mobile Radio Services, Docket No. 18921, RM-1197; RM-1218; RM 1330; Report and Order, Adopted: March 18, 1982; Released April 13, 1982, at para. 38.